

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7011

BILL NUMBER: SB 430

NOTE PREPARED: Jan 2, 2013

BILL AMENDED:

SUBJECT: Improper Sexual Conduct.

FIRST AUTHOR: Sen. Mrvan

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that a person at least 21 years of age who fondles a child who is at least 16 years of age but less than 18 years of age commits improper sexual activity, a Class A misdemeanor.

It increases the penalty to a Class D felony if the person engages in sexual intercourse with the child, and provides additional enhancements if the person is at least 25 years of age or the activity is forcible or not consensual.

It provides for defenses under certain circumstances.

Effective Date: July 1, 2013.

Explanation of State Expenditures: There are no data available to determine how many more offenders may be found guilty of improper sexual activity, a Class D felony, for performing or submitting to sexual intercourse or deviate sexual conduct involving an offender at least 21 years old and a victim between 16 and 18 years of age. The offense may be enhanced to a Class C felony if the person committing the offense is over 25 years old, or to a Class A felony if the offense involves deadly force, a deadly weapon, drugs, or results in serious bodily injury.

The bill also creates a Class A misdemeanor for improper sexual activity involving fondling or touching where the offender is at least 21 years old and the victim is between 16 and 18 years of age. This offense may be enhanced to a Class D felony if the offender is at least 25 years old or to a Class B felony if deadly force is

used, the offender is armed with a deadly weapon, or drugs are involved.

Depending upon mitigating and aggravating circumstances, a Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor, a Class A felony is punishable by a prison term ranging from 20 to 50 years, a Class B felony is punishable by a prison term ranging from 6 to 20 years, and a Class C felony is punishable by a prison term ranging from 2 to 8 years.

The average expenditure to house an adult offender was \$18,582 in FY 2012. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$78,318 in FY 2012.

The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately 10 months, for all Class A felony offenders is approximately 9.1 years, for all Class B felony offenders is approximately 3.7 years, and for all Class C felony offenders is approximately 2 years.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a felony is \$10,000 and for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings or incarcerated in a local jail for up to one year for a Class A misdemeanor, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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